

# **Committee on Ways and Means**

## ***Subcommittee on Health***

### **Detailed Summary of Chairman's Amendment to H.R. 4157, the *Health Information Technology Promotion Act of 2006***

#### **Section 1, Short Title and Table of Contents.**

#### **Section 2, Office of the National Coordinator for Health Information Technology.**

- Codifies the Office of the National Coordinator for Health Information Technology (IT) in statute and clearly delineates its ongoing roles and responsibilities.
- Duties of the Office shall include:
  - Maintaining and updating the strategic plan to guide the nationwide implementation of interoperable standards for health information technology to improve health care quality, reduce medical errors, increase the efficiency of care, and advance the delivery of appropriate evidence-based health care services.
  - Serving as the principal advisor to the Secretary of HHS on the use of health IT.
  - Serving as the coordinator of Federal government activities related to:
    - The development and maintenance of standards used in health information exchange in consultation with private sector entities.
    - The certification and inspection of health IT products to ensure that such products conform to the standards noted above.
  - Coordinating health information technology policies and programs across Federal agencies.
  - Providing input and advice to the Office of Management and Budget regarding Federal health information technology programs.

#### **Section 3, Stark/Anti-Kickback Safe Harbors.**

- Includes statutory safe harbors in physician self-referral (“Stark”) and anti-kickback laws that allow entities (including hospitals and group practices) to provide physicians with hardware, software, or related services that are used for the electronic creation, maintenance, and exchange of clinical health information.
- Provides that donors of such technology may not impose conditions limiting its use by physicians to individuals who are also patients of the donor entity; nor can donors limit

physicians' use of the technology in conjunction with other information technology systems that physicians might utilize.

- Requires that the provision of such remuneration be unrelated to the volume or value of referrals.
- Requires a written agreement signed by the parties that states the remuneration made and that the primary purpose of such remuneration is for better coordination of care or improvement of health care quality or efficiency.
- Allows this exception to preempt state laws governing self-referral and anti-kickback to ensure that the federal exception can be implemented.
- Requires the Secretary of HHS to report back to Congress in three years on the effect of the safe harbor on adoption of health IT and any impact it has had on business relationships between providers.

#### **Section 4, Uniform Privacy/Security Standards**

- Requires the Secretary of HHS to conduct a study on the impact of variation in state security and confidentiality laws and federal security and confidentiality standards.
- The study shall examine:
  - The degree to which the laws vary and are consistent among states and between states and current federal standards.
  - If there is variation, the strengths and weaknesses.
  - The extent to which such variation adversely impacts the security and confidentiality of individually identifiable health information, and the reliability of interoperable systems.
- The Secretary would report back to Congress within 18 months with determinations on whether state and federal security and confidentiality laws need to be made more consistent to strengthen the security and confidentiality of individually identifiable health information, and, if so, how such laws and standards should be conformed.
- If Congress does not enact legislation 18 months after receipt of the study, the Secretary has the authority, but is not required, to modify federal security and confidentiality standards and limit State security and confidentiality laws.
- If the Secretary does not act, no state laws are changed.

#### **Section 5, Adoption of Modern Coding System**

- Requires the Secretary to adopt the updated HIPAA transaction standard ASC X12 5010 (to replace ASC X12 4010) for transactions occurring on or after April 1, 2009. The standard applies to claims transactions.

- Requires the Secretary to adopt the updated National Council for Prescription Drug Programs (NCPDP) standard version D.0 for transactions occurring on or after April 1, 2009.
- Requires the Secretary to adopt, per the past recommendation of the National Committee on Vital Health Statistics (NCVHS), the ICD-10 coding system for transactions occurring on or after October 1, 2009. The standard applies to coding for diagnosis and procedures.

#### **Section 6, Procedures to Ensure Timely Updating of Standards that Enable Electronic Exchanges**

- Adopts an accelerated process for updating standards to keep pace with the development of technology.
- Requires the Secretary to publish a notice in the Federal Register and receive and consider comments on proposed additions or modifications developed by a HIPAA standard setting organization and proposed to the NCVHS.
- Requires the NCVHS to submit its recommendation to the Secretary within 90 days.
- Requires the Secretary to adopt or reject proposed modifications or additions to existing standards within 90 days if the NCVHS recommends the change.

#### **Section 7, Report on the American Health Information Community**

- Requires the Secretary of HHS to report back in one year on the activities of the American Health Information Community (AHIC), with recommendations for the ongoing structure and responsibilities of the entity.
- AHIC was formed to provide input and recommendations to HHS on how to make health records digital and interoperable, and assure that the privacy and security of those records are protected.

#### **Section 8, Strategic Plan for Coordinating Implementation of Health Information Technology**

- Requires the Secretary to develop a strategic plan to coordinate implementation efforts for health information technology standards, HIPAA transaction standards, and new coding systems.
- Such a plan must address how activities will be coordinated between the Office of the National Coordinator for Health IT, the American Health Information Community, the Office of Electronic Standards and Security, and the National Committee for Vital Health Statistics.